

# INFORMATION LETTER

Not for  
Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## TEXTILE INDUSTRY DENIED EXEMPTION

### Labor Department Requires Adherence to Hours Provisions of Walsh-Healey Act

Canners who are considering the possibility of securing an exemption from the provisions of the Walsh-Healey Act requiring adherence to a 40-hour week and 8-hour day for employees working on Government contracts, on the grounds that this requirement would work undue hardship, will be interested in the recent action of the Public Contracts Board of the Labor Department in denying a similar request made by members of the cotton textile industry. The latter industry had requested an exemption for 90 days in the case of shipping crews and certain other employees engaged in the operation of machines used as part of a continuous chemical process where the goods would be jeopardized by interruption. It was hoped that this ninety days of grace would afford the industry an opportunity of working out some satisfactory means of complying with the requirements of the Act. The Board, which was appointed by the Secretary of Labor to administer the Act, in recommending that the request be denied, pointed out that the overtime rates prescribed by the Regulations afforded a certain amount of latitude in dealing with these employees.

A request for exemption from the 40-hour week, 8-hour day stipulation was also made with reference to certain custodial, supervisory, maintenance and clerical employees. The Board declined to pass on this request on the grounds that these employees were not covered by the Act.

The Board, however, granted the industry's request that girls between the ages of 16 and 18 years be exempted for a period of ninety days, but limited the exemption to daytime employment.

## FOURTH ROBINSON-PATMAN COMPLAINT

### Commission's Action Raises the Question of Customer Classification

On October 17th the Federal Trade Commission issued its fourth complaint charging violation of the Robinson-Patman Act, the complaint being against the United States Quarry Tile Company. The complaint alleges that the tile company is engaged in interstate commerce and is discriminating in the sale of building tiles to two classes of customers, so-called wholesalers and tile contractors. It is alleged that a 15 per cent discount, regardless of quantity, is allowed to the so-called wholesalers while the tile contractors are sold at list. The complaint further recites that

"The said so-called wholesalers are in fact retailers in that they resell said tile to the ultimate consumer and are thereby in direct competition in the sale of tile with the tile contractors."

Beyond this, the complaint alleges no facts. It does not specify the particular markets in which the discrimination takes place nor does it particularize the effects upon competition. It concludes merely that sales at these different prices to these two different groups result in all of the illegal effects specified in the statute.

This new complaint is interesting to the canning industry in that it raises the question of customer classification. While it does not directly charge that selling wholesalers on the basis of a wholesale list and retailers upon the basis of a higher retail list is illegal, it does charge that the classification by the tile company of certain of its customers as wholesalers is improper and that such customers are in fact retailers. The complaint, of course, does not specify the basis upon which the respondent's classification was made and perhaps indicates that, even if classification of customers into wholesale and retail groups is to be permissible, the Commission may re-examine in any case the basis upon which such classification is made. If the Commission actually enters this area of investigation, the complexities of administering the Robinson-Patman Act will be increased manifold, because the trade definition of wholesaler and retailer, or jobber and dealer, as well as the various other distributor classifications, such as factors, merchandising brokers, commission men, etc., vary from industry to industry.

This fourth complaint is likewise interesting in indicating that it may become the practice of the Commission to issue complaints which allege merely a difference in price without specifying the precise market, the customer, or specific effect upon competition, thus placing upon the respondent the rather great burden of establishing that the price differentials in question have had no unlawful effect in any market in which he sells.

## Finnish Trade Agreement Effective November 2

The reciprocal trade agreement between the United States and Finland, which will become effective November 2, makes the following changes in Finnish duties on agricultural products of interest to canners. At present rates of exchange 1 Finnish mark per kilo equals approximately 1 cent per pound.

Canned asparagus.—Duty reduced from the present rate of 10 Finnish marks to 6.50 Finnish marks per kilo.

Fresh apples.—A reduced rate of 1.50 Finnish marks per kilo will apply to American apples imported during the period December 15th to June 15th of each year. This represents a reduction of 75 per cent from the present rate of 6 Finnish marks per kilo in effect during the period December 15th to December 31st, and a reduction of 50 per cent from the present rate of 3 Finnish marks in effect during the

period January 1st to June 15th. The period during which the lowered duty operates will permit entries to be made in time to participate in the holiday trade.

**Fresh pears.**—Duty of 1.00 Finnish mark per kilo is bound by the agreement.

**Grapefruit.**—Duty is reduced from 1.00 Finnish mark to 0.50 Finnish mark per kilo.

**Raisins.**—Duty is reduced from 1.00 Finnish mark to 0.50 Finnish mark per kilo.

**Prunes.**—Duty of 1.37 Finnish marks per kilo is reduced to 0.70 Finnish mark per kilo.

**Dried apricots, peaches, pears and mixed fruits.**—The duty on these products has been 6.00 Finnish marks per kilo since 1932. The agreement reduces the duty by 50 per cent or to 3.00 Finnish marks, the rate that was in effect in 1930 and 1931.

### SOCIAL SECURITY DEVELOPMENTS

#### Constitutionality of Alabama Law—Pending Legislation in Other States

On October 2nd, in a suit filed by the Gulf States Steel Corporation, the Federal District Court for Alabama granted a temporary injunction restraining the collection of the taxes under the Alabama unemployment compensation statute. The decree of the court ordered the taxes to be deposited in escrow pending a final decision on the constitutionality of the Act. Several other Alabama employers have taken advantage of this precedent and filed similar petitions or have intervened in the original proceedings. In addition, similar suits have been filed in the State courts of Alabama with like relief granted. On October 12th more than 250 employers had filed intervening petitions in the proceedings in the State court. The decrees restraining collection of the taxes apply only to employers who have instituted or intervened in the suits. Other employers must continue to make their contributions.

#### Due Date of California Contributions

The California Commission has recently ruled that payments under the unemployment compensation statute of that State for the months of October, November and December shall be due on January 1, 1937, and delinquent February 1, 1937. Employers may elect to make monthly returns if they so desire.

#### Status of Washington Act

In the INFORMATION LETTER of September 26th, attention was directed to the decision of the Supreme Court of the State of Washington declaring inoperative the unemployment compensation statute of that State. The Attorney General of Washington recently announced that no appeal or petition for rehearing would be filed and the State is therefore without any unemployment compensation legislation. Employers who have deducted employee contributions from the wages of their employees should return the same. Employers in Washington having eight or more employees during 20 weeks of the year are still subject to the Federal Act, however, and will be liable to pay a tax of 1 per cent of their payroll to the Federal Government.

#### Pending State Legislation

A special session of the legislature of Connecticut has been called to convene November 5, 1936. One of the sub-

jects to be considered is unemployment compensation legislation for that State.

A special session of the Texas legislature convened September 28th. Both Senate and House have passed bills providing for unemployment compensation. These two bills differ in their terms, however, and the final form has not yet been agreed upon.

### Meeting of Dietetic Association

While the subject of labeling was not on the program of the nineteenth annual convention of the American Dietetic Association, which was held at Boston the week of October 11th with an attendance of 1,200 members, Miss Atwater of the Home Economics Division reports that much interest in the progress of the descriptive labeling plan was expressed to her by many of those whom she met at the meeting.

The Dietetic Association represents some of the largest buyers of canned foods in the United States, as it includes dietitians of the Veteran's Administration, public and private hospitals, women administering the food services of colleges and universities, dietitians of high school cafeterias, women in the hotel, restaurant and tea room field, as well as magazine editors, newspaper food writers, women doing radio publicity in the food field, dietitians in the business field directing consumer service information, and those advising in W. P. A. programs.

The commercial exhibits, of which there were 45, included 12 from the canning industry. Some of the leaflets of the National Cannery Association were included in the educational exhibit of the Dietetic Association.

### Fruit and Vegetable Market Competition

Carlot Shipments as Reported by the Bureau of Agricultural Economics, Department of Agriculture

	Week ending			Season total to	
	Oct. 17, 1935	Oct. 17, 1936	Oct. 10, 1936	Oct. 17, 1935	Oct. 17, 1936
<b>VEGETABLES</b>					
Beans, snap and lima	93	154	45	9,671	8,247
Tomatoes.....	572	415	597	22,137	23,714
Green peas.....	94	66	77	7,133	7,150
Spinach.....	41	27	3	5,584	7,599
Others:					
Domestic, competing directly.....	2,008	1,804	2,396	105,088	115,313
Imports, competing indirectly....	71	49	77	258	309
<b>FRUITS</b>					
Citrus, domestic....	2,187	1,757	1,811	151,614	135,215
Imports.....	13	1	4	270	91
Others, domestic....	5,283	3,329	4,074	39,144	41,316

### A.A.A. TO BUY GRAPEFRUIT

#### Program Designed to Prevent Waste and Depression of Prices

The Agricultural Adjustment Administration announced on October 21st that substantial quantities of surplus grapefruit will be bought throughout the current marketing season for relief distribution to encourage domestic consumption of fruit which otherwise may be wasted or may have a depressing effect on prices to growers. Following is the text of the A.A.A. statement:

"The program to divert surplus grapefruit from normal channels of trade and commerce into distribution for relief use, is to supplement efforts which citrus growers and handlers are making to improve marketing conditions through marketing agreement programs. The amount to be purchased will depend upon market developments.

"The program was developed at the request of growers and handlers in the major grapefruit producing areas. This season's crop in the United States is the largest on record, with production estimated at 27,603,000 boxes, compared with an average of 14,730,000 boxes produced during the five years, 1928-32.

"Purchases will be made chiefly in Florida, Texas, California, and Arizona. The fruit is to be bought by the Agricultural Adjustment Administration and distributed by the Federal Surplus Commodities Corporation to relief agencies.

"The purchases will be made direct from growers or shippers through, or in cooperation with, the control committees of the citrus marketing agreement programs operating in Florida, and in the California-Arizona area, and a committee representing the industry in Texas.

"The buying of fruit is to be restricted to U. S. No. 3 grade or better, and the grade of grapefruit delivered must be certified by the Federal-State or State inspection services.

"First purchases of surplus grapefruit are expected to be made in Florida before the end of this month, since this state is now shipping fruit to market in considerable volume. Purchases in the Texas and California-Arizona areas are expected to begin later in the season when the volume of shipments and market conditions warrant.

"Florida grapefruit growers have been informed by the Agricultural Adjustment Administration that purchases of surplus grapefruit will be made in that state at 46 cents per standard field box loaded in cars, of which 31 cents will go to growers. Shippers are to pay the state's 3-cent advertising tax and 1 cent inspection charge out of the 15 cents they receive, leaving 11 cents for picking, hauling, washing, grading, and loading the bulk fruit in cars. Prices to growers in the other producing areas will be on a comparable basis, with suitable allowances for necessary handling, packaging, or loading costs.

"The basis on which the purchases are to be made was developed by the Agricultural Adjustment Administration through conferences with representatives of shippers and growers.

"Operation of the grapefruit diversion program is made possible under provisions of section 32 of the amendments to the Agricultural Adjustment Act approved August 1935, as amended. This section makes available to the Secretary of Agriculture an amount equivalent to 30 per cent of annual customs receipts for uses which include diversion of agricultural products from normal channels of trade to encourage domestic consumption."

### RATE ADJUSTMENT SOUGHT

#### Railroads File Petition with the Interstate Commerce Commission

Readjustment in the railroad rate structure, which, it is claimed, will result in the aggregate in a somewhat lower level of charges than now in effect, is sought by Class I rail-

roads in a petition filed this week with the Interstate Commerce Commission. As to the changes proposed the petition states:

"In some instances the proposed rates involve increases in existing rates, including emergency charges. In some instances, the proposed rates are the same as existing rates, including emergency charges. In many instances, the proposed rates are less than existing rates, including emergency charges, and in some instances less than existing base rates. For example, it is proposed to reduce existing class rates to the level of the present base rates, with the exception of fifth and sixth class rates in official territory which will be somewhat higher than present base rates. Again, with respect to the classification ratings on articles in less than carloads or any-quantity, rated not less than third class in Official, Southern, Western, and Illinois classifications, it is proposed, with few exceptions, to make them uniform on the basis of the lowest rating in any one of the classifications. This will result in more than 1,800 reductions in ratings, and less than 40 increases. It will also constitute an important forward step in the simplification of tariffs."

On canned goods it is proposed to increase commodity rates by "10 per cent with maximum of 2 cents, except no increase is proposed in specific commodity rates now lower than column ratings, on canned citrus fruit and canned citrus fruit juices from South and Southwestern Freight Bureau." The change proposed is in the present transportation rate without the emergency charge.

The foregoing change would not involve Intermountain or Pacific Coast rates. With certain exceptions, which would not include canned goods, the railroads propose to publish the present transcontinental rates and charges without expiration date.

### CROP INSURANCE CONFERENCES

#### President's Committee Announces Meetings to Be Held in November

The President's Committee on Crop Insurance will confer with leaders in the field of insurance, representatives of the warehouse industry, and with leaders of farm organizations early in November, according to an announcement by the Department of Agriculture.

Representatives of insurance companies will be invited to confer informally with the Committee on November 5th, representatives of those engaged in warehousing farm products on November 6th, and leaders of farm organizations on November 7th.

The Committee, which has been asked by the President to report on the subject in December, has held several meetings and on October 17th discussed crop insurance problems with leaders of several national farm organizations including Edward A. O'Neal, president, American Farm Bureau Federation, which was also represented by Dr. O. O. Wolf, director of the American Farm Bureau and president of the Kansas Farm Bureau Federation; James Louis Taylor of the Indiana Farm Bureau Federation, L. J. Taber, master of the National Grange; and representing the National Cooperative Council, M. C. Williamson, president of the American Cotton Cooperative Association, Thomas Johnson, director of National Cooperative Council, and Robin Hood, Secretary-Treasurer.



No final decisions with regard to any phase of crop insurance have been reached thus far by the Committee, which is composed of: Secretary Wallace, chairman; Dr. A. G. Black, Chief of the Bureau of Agricultural Economics, vice-chairman; Wayne C. Taylor, Assistant Secretary of Treasury; Ernest G. Draper, Assistant Secretary of Commerce; and H. R. Tolley, Administrator of the Agricultural Adjustment Administration.

### Navy Seeks Bids on Kraut and Corned Beef

Bids are being asked by the Navy Department on canned corned beef and canned sauerkraut for delivery at various East and West Coast points. The bids on sauerkraut (schedule 9072) will be opened on November 24th and those on corned beef (schedule 9066) on December 1st. Copies of the schedules on which to submit bids may be obtained from the Bureau of Supplies and Accounts, Navy Department, Washington, D. C.

### New Publication for Exporters

The Department of Commerce on October 19 released a publication entitled "Industrial Property Protection Throughout the World." This 184-page pamphlet discusses and digests the laws and regulations of the various nations in regard to trade-marks, patents and designs, unfair competition, and copyrights. It is intended primarily to aid the exporter who is studying new markets for his merchandise, so that he may give adequate attention to the protection of the intangible rights collectively known as industrial property. Copies may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C., for 20 cents each.

### Florida Grapefruit Association Officers

At the annual Fall meeting of the Florida Grapefruit Canners Association held on October 13th, the following officers were elected for the coming year: C. E. Lindsey, President; Ralph Polk, Jr., Vice-President; H. W. Nelson, Treasurer; and C. C. Rathbun, Secretary.

### Report Issued on Alaska Fisheries

"Alaska Fisheries and Fur-Seal Industries in 1935" has been issued by the U. S. Bureau of Fisheries as Administrative Report No. 23. As in past years, this report furnishes in its 71 pages a detailed review of the fishery industries of Alaska, including statistics and other information on canning operations. Copies of the report are available from the Superintendent of Documents, Government Printing Office, at 10 cents each.

### State Association Conventions

Ozark Canners Association, January 7 and 8, Springfield, Missouri, Colonial Hotel.

Northwest Cannery Association, January 4-6, Portland, Oregon, Multnomah Hotel.

Iowa-Nebraska Cannery Association, December 2, Des Moines, Iowa, Ft. Des Moines Hotel.

### Foods for Christmas Gifts

The grocery trade of St. Louis is actively preparing for its annual campaign to increase the sale of foods as Christmas gifts. Last year, it is estimated, some \$3,000,000 worth of food was distributed through grocery channels for this purpose. Aside from the advertising plans under way a speakers' bureau is being arranged which will contact women's and other organizations in order to give wider acceptance to the idea of food for Christmas instead of some other gift which is not so acceptable.

The Massachusetts Retail Grocers Association is promoting a Christmas food exposition to be held in Mechanics Building in Boston, November 30th to December 5th, with special programs each day. It is the expectation to promote new sales and new uses for food products, especially holiday foods, so as to make 1936 a "Grocers' Christmas."

### Indians to Operate Cooperative Cannery

Wyoming newspapers report the final approval of a \$13,200 loan to a group of Indian farmers at Ft. Washakie to construct a cooperative canning plant. The loan is repayable in ten years, with 4½ per cent interest. Twenty-two cooperative enterprises sponsored by the Resettlement Administration are reported in operation in the State.

### Canning Crab Gumbo

The Bureau of Fisheries, of the Department of Commerce, recently issued a statement giving directions for canning crab gumbo, which is designated Sp. 1607-21. Details of the procedure suggested are given. Copies may be had on request to the Bureau of Fisheries, Washington, D. C.

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